

CHAPTER 4 ADMINISTRATION

4.01 Administration

- A. As provided in Section 3.03 of these Regulations, the Gallatin County Floodplain Administrator has been designated by the Gallatin County Commission, and has the responsibility of such position as outlined in these Regulations.
- B. The Floodplain Administrator is hereby appointed with the authority to review floodplain development permit applications and proposed uses or construction to determine compliance with these Regulations, and is required to assure all necessary permits have been received from these governmental agencies from which approval is required by federal and state laws and local codes, including Section 404 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1334, and under the provisions of the Natural Streambed and Land Preservation Act.
 - 1. Additional Factors - Floodplain development permits shall be granted or denied by the Floodplain Administrator on the basis of whether the proposed establishment, alteration, or substantial improvement of an artificial obstruction or non-conforming use meets the requirements of these Regulations. Additional factors that shall be considered for every permit application are:
 - a. the danger to life and property due to increased flood heights, increased flood water velocities or alterations in the pattern of flood flow caused by encroachments;
 - b. the danger that materials may be swept onto other lands or downstream to the injury of others;
 - c. the proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
 - d. the susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
 - e. the importance of the services provided by the facility to the community;
 - f. the requirement of the facility for a water-front location;
 - g. the availability of alternative locations not subject to flooding for the proposed use;
 - h. the compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
 - i. the relationship of the proposed use to the comprehensive plan and floodplain management for the area;

- j. the safety of access to property in times of flooding for ordinary and emergency services; and,
 - k. such other factors as are in harmony with the purposes of these Regulations, the Montana Floodplain and Floodway Management Act and the National Flood Insurance Program.
- C. A floodplain development permit application is considered to have been automatically granted sixty (60) days after the date of receipt of the application by the Floodplain Administrator, unless the applicant has been notified that the permit is denied, conditionally approved or additional information pertinent to the permit review process is required.
- D. The Floodplain Administrator shall adopt such administrative procedures as may be necessary to efficiently administer the provision of these Regulations.
- E. The Floodplain Administrator shall maintain such files and records as may be necessary to document nonconforming uses, base flood elevations, floodproofing and elevation certifications, fee receipts, the issuance of permits, agendas, minutes, records of public meetings, and any other matters relating to floodplain management in Gallatin County. Such files and records shall be open for public inspection. In matters of litigation, the Gallatin County attorney may restrict access to specific records.
- F. Copies of all permits granted must be sent to the Department of Natural Resources and Conservation in Helena, Montana.
- G. The floodplain administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of these regulations. Additional information may include hydraulic calculations assessing the impact on base flood elevations or velocities; level survey; or certification by a registered land surveyor, professional engineer, or licensed architect that the requirements of these regulations are satisfied.
- H. Upon receipt of an application for a permit or a variance the Floodplain Administrator shall prepare a notice containing the facts pertinent to the application and shall publish the notice at least once in a newspaper of general circulation in the area. Notice shall also be served by first-class mail upon adjacent property owners and the DNRC Floodplain Management Section. The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity.
- I. In riverine situations, notification by the Floodplain Administrator must be made to adjacent communities, the Floodplain Management Section (DNRC), and the Federal Emergency Management Agency, prior to any alteration or relocation of a stream. The flood-carrying capacity within the altered or relocated portion of any stream must be maintained. Erosion control measures shall be incorporated to ensure stability of altered channels and stream banks.

4.02 Permit Applications

- A. Activities or uses which require the issuance of a permit, including the expansion or alteration of such uses, shall not be initiated, established or undertaken until a permit has been issued by the Floodplain Administrator.
- B. Permit applicants may be required to furnish such of the following as is deemed necessary by the Floodplain Administrator for determining the suitability of the particular site for the proposed use:
 - 1. Plans in duplicate drawn to scale with dimensions shown, showing the nature, location and elevation of the lot, existing and proposed structure locations, fill, storage or materials sites, flood-proofing measures, first floor of proposed structures in mean sea level elevation and location of the channel;
 - 2. A plan view of the proposed development indicating external dimensions of structures, street or road, finished grade elevations, well locations, individual sewage treatment and disposal sites, excavation and/or fill quantity estimates, site plan and/or construction plans; and,
 - 3. Specifications for flood-proofing, filling, excavating, grading, riprapping, storage of materials and utilities location.
 - 4. In evaluating a proposed use within a floodplain for which no floodway has been designated, the Floodplain Administrator may require the applicant to submit the following:
 - a. Cross Sections A minimum of four (4) surveyed valley cross sections by a registered land surveyor according to the following field survey instructions:
 - 1. The surveys required are cross sections of stream channels and the floodplain on both banks.
 - 2. One cross section shall be taken at a point on the stream from which it could be extended through the site.
 - 3. Three cross sections shall be taken downstream from the site, each approximately one thousand (1,000) feet apart. In no case, however, should the fall in water surface elevation between two (2) sections exceed five (5.0) feet. Cross sections should also be taken at all bridge locations in the reach. The cross section farthest downstream should be located at a natural constriction or at a bridge crossing. Cross sections shall be taken at any bridge location between site and lowest cross section. All bridges in the reach should be described and sketched showing unobstructed waterway openings and elevations.

4. Distances between cross sections are to be determined by stadia, and these distances and locations of cross sections shall be shown on the location map.
 5. The overbank cross sections are to be extended to obtain a vertical rise of fifteen (15) feet above the water surface.
 6. If a U.S. Geological Survey river gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.
 7. Elevations of the water surface determined by survey as part of each valley cross section.
 8. Cross sections should be plotted on ten (10) divisions to the inch cross section paper, using any convenient, identified scale for vertical and horizontal distance.
 - a. The elevation of any known high water mark shall be identified and included in the survey.
 - b. Profile A profile sheet shall be prepared by a registered land surveyor, or registered civil engineer on cross section paper of ten (10) divisions to the inch, showing the observed water surface profile, location of cross sections, site boundaries, riverbank profile, and thalweg (lowest point of the channel bottom along the reach of stream).
 - c. Reference All surveyed elevations shall be tied to mean sea level datum and the benchmark used shall be identified.
 5. Instructions for field surveys for flood hazard elevations are available in the Flood Administrator's Office.
 6. A professional engineer's or registered architect's design calculations and certification that the proposed activity has been designated to be in compliance with these regulations.
 7. Certification of flood-proofing and/or elevation shall be provided on a standard form available from the floodplain administrator.
- C. To determine that the permit specifications and conditions have been completed, applicants who have received permits are required to furnish the following, at the time of an on-site conformance inspection, for determining that the permit specifications and conditions have been complied with:
1. Certification by a registered professional engineer or licensed land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered or substantially improved structures.

2. If flood-proofing techniques were utilized for the above described structures, then the mean sea level elevation to which the flood proofing was accomplished must be similarly certified.
3. Certification shall also be required, for artificial obstructions other than buildings, that the activity was accomplished in accordance with these regulations and the design plans submitted with the application for the permit activity. This certification may be waived by the floodplain administrator if it can be clearly ascertained by a site inspection that the activity was accomplished in accordance with these regulations.
4. Certification of flood-proofing and/or elevation shall be provided on a standard form available from the floodplain administrator.

4.03 Emergency Waiver

- A. Emergency repair to and/or replacement of severely damaged public transportation facilities, public water and sewer facilities, and flood control works may be authorized and floodplain development permit requirements waived if:
 1. upon notification and prior to the emergency repair and/or replacement, the Floodplain Administrator determines that an emergency condition warranting immediate action exists; and
 2. the Floodplain Administrator agrees upon the nature and type of proposed emergency repair and/or replacement.
- B. Authorization to undertake emergency repair and/or replacement work may be given verbally if the Floodplain Administrator feels that such a written authorization would unduly delay the emergency works. Such verbal authorization must be followed by a written authorization stating the emergency condition, the type of emergency work agreed upon, and a notation that a verbal authorization had been previously given.

4.04 Review -Variances-Appeals

- A. Gallatin County Commission may, by variance, grant a permit that is not in compliance with the minimum standards contained in these Regulations according to the following procedures.
- B. All applications for a variance shall be accompanied by a fee of \$225.00, separate from the permit application fee. The application must clearly state all issues concerning the variance and any not included shall be considered separately and must be accompanied by another application fee.
 1. Variances shall not be issued for areas within a floodway if any additional increase in flood elevations or velocities after allowable encroachments into the floodway fringe would result;

2. Variances shall only be issued upon:
 - a. a showing of good and sufficient cause;
 - b. a determination that refusal of a permit would, because of exceptional circumstances, cause a unique or undue hardship on the applicant or community involved;
 - c. a determination that the granting of a variance will not increase flood hazard either upstream or downstream in the area of insurable building, present additional threats to public safety, be an extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing state or local laws;
 - d. a determination that a proposed use would be adequately flood-proofed;
 - e. a determination that a reasonable alternative location outside the floodplain is not available;
 - f. a determination that the variance requested is the minimum necessary, considering the flood hazard, to afford relief; and
 - g. approval of the Montana Department of Natural Resources and Conservation, upon request from Gallatin County prior to formally approving any permit application which is in variation to these Regulations.
3. Variances shall be issued in writing from the Gallatin County Commission and shall notify the applicant that:
 - a. a specific variance is granted, and that certain conditions may be attached,
 - b. the issuance of a variance to construct a structure below the 100-year floodplain elevation will result in increased premium rates and
 - c. such construction below the 100-year flood elevation increases risks to life and property. The Floodplain Administrator shall maintain the records of variance notification, variance actions, including justification for their issuance, and forward copies of all variance actions to the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency.

C. Appeals of any decision made by the Floodplain Administrator may be appealed to the Gallatin County Commission. All appeals of the decisions made by the Floodplain Administrator shall be deemed as an application for a variance and shall be accompanied by the appropriate fee. On hearing of any appeal, the Gallatin County shall take testimony and enter finding of facts and conclusions and shall make such findings and conclusions available to the appellant within a reasonable time.

4.05 Fees

- A. A processing fee of \$225.00 shall be submitted with each application to help offset the expenses incurred by the hearing procedure. This fee is not refundable once public notice has been given.

- B. A fee of \$225.00 shall be submitted with each application for a variance to help offset the expenses incurred by the hearing procedure. This fee is not refundable once public notice has been given.

4.06 Violation Notice

The Floodplain Administrator shall bring any violation of these Regulations to the attention of the Gallatin County Commission, the Office of the Gallatin County Attorney and the Montana Department of Natural Resources and Conservation.

4.07 Compliance

Any use, arrangement or construction not in compliance with that authorized shall be deemed a violation of these Regulations and punishable as provided in Section 4.08. An applicant may be required to submit certification by a registered professional engineer, architect, land surveyor or other qualified person designated by the Floodplain Administrator that finished fill and building floor elevations, flood proofing or other flood protection measures were accomplished in compliance with Regulations.

4.08 Penalties

Violation of the provisions of this Resolution or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than six (6) months or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County of Gallatin from taking such other lawful action as is necessary to prevent or remedy any violation.

4.09 Emergency Preparedness Planning

In formulating community development goals, the community shall consider the development of a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas. This plan should be developed, filed with, and approved by appropriate community emergency management authorities.

4.10 Amendments

These regulations may be amended by the County Commission whenever the public necessity and convenience and general welfare require such amendment, after a public hearing is held before the County Commission, legal notice of which shall have been given in a newspaper of general circulation in the county not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing.